



DEPARTMENT OF THE ARMY

BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF

January 18, 2005

Regulatory Branch

SUBJECT: Notice of Intent to Sue, Greenfield Homes LLC, Application No. 2003-01972(1)

Ms. Lisa Feiner
Assistant Attorney General
New York State Office of the Attorney General
120 Broadway
New York, New York 10271

Dear Ms. Feiner:

This is in response to your Notice of Intent to Sue the United States Army Corps of Engineers dated November 15, 2004, regarding Greenfield Homes LLC, in the Town of Lysander, Onondaga County, New York.

I have re-evaluated the Greenfield Homes file, based in part upon the new information that you supplied. In the process of that re-evaluation, my staff conducted another site visit to determine whether the wetlands designated 2 and 3 in the Terrestrial Environmental Specialists, Inc., jurisdiction determination, dated August 6, 2003, are hydrologically connected to a tributary of the Seneca River, a navigable water of the United States. Our site visit resulted in a determination that such a hydrological connection between the wetlands in question and the tributary system of the navigable waters of the United States does in fact exist. As a result, dredged or fill material, or other pollutants, discharged into the subject wetlands could reasonably be expected to adversely affect the navigable waters. Consequently, I have determined that wetlands 2 and 3 are subject to Federal regulation under Section 404 of the Clean Water Act.

I have informed the current property owner that the previous jurisdictional determination is no longer valid and that all wetlands on this site are Federally regulated under the Clean Water Act. I have advised him of his options to appeal the jurisdictional determination, or to apply for a Department of the Army Permit to authorize the discharge of dredged or fill material into the subject wetlands.

A copy of this letter has been forwarded to Mr. Mario Paula of the U.S. Environmental Protection Agency.

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Questions pertaining to this matter should be directed to Mr. Philip Frapwell at (716) 879-4312, or by e-mail at: philip.d.frapwell@usace.army.mil. Thank you for bringing this matter to the attention of the U.S. Army Corps of Engineers.

Sincerely,

SIGNED

Timothy B. Touchette
Lieutenant Colonel, Corps of Engineers
District Engineer